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Illinois Commerce Commission
On Its Own Motion

Requirements governing the form and content
of contract summaries for the neutral fact-finder
process for 2000 under Section 16-112(c) of the
Public Utilities Act

Docket No. 00-0007

REPLY BRIEF ON EXCEPTIONS OF ILLINOIS POWER COMPANY

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Dated: April 13, 2000

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

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Pursuant to § 200.800 of the Commission's Rules of Practice and the schedule set forth by the Hearing Examiner in the above-referenced docket, Illinois Power Company ("IP") hereby submits its reply to certain briefs on exceptions. IP will focus its reply on issues raised by the Illinois Industrial Energy Consumers ("IIEC") and NewEnergy Midwest, L.L.C. ("NewEnergy").¹

In its exceptions, the IIEC continues to argue for a novel method for unbundling retail contracts. IIEC BOE at 3-5. Both the HEPO and the IIEC's BOE only cite to the arguments against this position submitted by the Staff and Commonwealth Edison. The reasons supplied by those parties are persuasive and should suffice as a basis to continue to reject the IIEC's position.

However, in its Reply Brief, IP also provided additional reasons for rejecting the IIEC's position. IP Reply Br. at 2, n.2. In particular, IP noted that the IIEC's proposal was presented for the first time in this proceeding in its Initial Brief. Because it was made after the close of the record, this new proposal should be rejected as procedurally improper. In any event, it must be rejected as inconsistent with the law. The IIEC proposes that the Commission mandate calculating

¹ Failure to address other points raised by these or other parties does not necessarily mean that IP agrees with those points.

TCs “on the basis of the contract in effect in the year preceding the date of the customer’s eligibility for delivery service,” regardless of whether the contract rate is even applicable. IIEC Br. at 8. Section 16-102 of the PUA, however, specifically provides that contract rates are only to be used “to the extent applicable.” Furthermore, Section 16-112(c) refers to the transition charges “applicable to delivery services customers in a utility’s service area.” Thus, any instructions must comport with each individual utility’s TC tariff. Yet, the IIEC provides no demonstration that its new instruction is consistent with each utility’s TC tariffs. Indeed, in its BOE, the IIEC strives to distinguish among various utility’s tariffs on this very point.² Thus, the Commission should reject the IIEC’s attempt to impose an unbundling method that is contrary to the statute and the TC tariffs approved by this Commission.

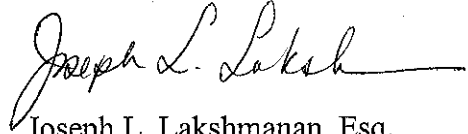
NewEnergy’s exceptions amply demonstrate the old saw that there is nothing new under the sun. NewEnergy merely re-hashes the same arguments and tired testimony it presented before. These positions were properly rejected in the HEPO based on sound arguments submitted by many parties including the ICC Staff and IP and should be rejected again at this stage.

² IP is concerned that the IIEC chose to cast aspersions upon the legality of IP’s Rider TC in a footnote in its BOE. IIEC BOE at 3, n.1. IP believes that Rider TC, which was approved by this Commission, is consistent with the dictates of the PUA, but, to the extent the IIEC has any doubts on this point, IP offers to discuss the matter with them in an appropriate forum.

WHEREFORE, Illinois Power Company requests that the Commission:

- (1) reject the exceptions to the HEPO presented by the IIEC and NewEnergy; and
- (2) adopt the exceptions set forth in IP's Brief on Exceptions.

Respectfully submitted,

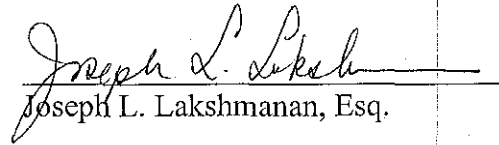
A handwritten signature in cursive script, appearing to read "Joseph L. Lakshmanan", written in black ink.

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CERTIFICATE OF SERVICE

I, Joseph L. Lakshmanan, certify that on the 13th day of April, 2000, I served a copy of Illinois Power's Reply Brief on Exceptions by electronic mail and first class mail, from Decatur, Illinois, fees prepaid to the individuals on the service list attached.


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